
Appeal Decision

Site visit made on 1 August 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st August 2017.

Appeal Ref: APP/H5390/W/17/3171419
22 Kings Mall, King Street, London W6 0PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Infocus Public Networks Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2016/05528/TEL56, dated 16 December 2016, was refused by notice dated 9 February 2017.
 - The development proposed is installation of an electronic communications apparatus.
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Decision

1. The appeal is allowed and approval is granted under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of an electronic communications apparatus at 22 Kings Mall, King Street, London W6 0PZ in accordance with the terms of the application Ref 2016/05528/TEL56, dated 16 December 2016, and the plans submitted with it.

Procedural Matters

2. I have taken the description of development provided in the application form.
3. The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) enables certain types of development to take place without the need for a specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 16, Class A for the installation of electronic communications apparatus, subject to certain limitations.
4. In refusing the application, the Council stated that it considered that prior approval of the siting and appearance of the apparatus would be required, and that approval was refused due to its impact on visual amenity and pedestrian movement and safety.
5. The Council is also concerned about the likelihood of the clear glass panels being used for advertisements. The construction of the kiosk and the display of advertisements are two distinct and separate developments requiring two applications. The appeal before me relates to the construction of the kiosk and not advertisement consent. I have dealt with the appeal on this basis.

Main Issue

6. The main issue is whether or not approval should be given in respect of the siting and appearance of the development, with particular regard to its effect on the character and appearance of the area and pedestrian safety.

Reasons

7. The application sought approval for the siting and appearance of a solar powered payphone kiosk with wheelchair access. The approximate dimensions would be 1.4 metres by 1.2 metres by 2.6 metres high. The kiosk would be glazed with a canopy and supported by a solid frame, which would be powder coated steel. The structure would be three sided and would be fully accessible to wheelchairs users or other people with limited mobility.
8. The proposed kiosk would be sited towards the back of the pavement, in front of the primary shopping frontage of Kings Mall, on the northern side of King Street. It would be located in front of an existing shop front and close to the flank wall of the adjoining building, between two utility cabinets and a row of cycle stands. The Council states that the area has recently been upgraded as part of public realm improvements and, as a result, it is not cluttered by street furniture.
9. The pavement is relatively narrow in this location and there is a high level of pedestrian activity due to the shops. However, the kiosk would not be prominently located as it would be close to the buildings and would not project beyond the front elevation of the adjoining building at No 21. The kiosk would partially obscure the shop front behind it, but its size and siting would enable views through to the shop front, which would not be completely masked.
10. The kiosk would contribute to visual clutter but it would be seen in the context of the buildings at the side and rear. The powder coated frame and glazed materials would blend in with the buildings and the kiosk would not stand out in the street scene as an obtrusive feature. Although, the amount of available pavement would be reduced, this area is not in the main pedestrian route being at the back of the footway and adjacent to the flank wall of No 21. Consequently, the kiosk would not impede pedestrian traffic or present a material risk to pedestrians with a visual impairment.
11. The Council is concerned that the siting of the kiosk would result in a recess between the kiosk and the wall of the adjacent building, which would encourage anti-social behaviour. I appreciate that the kiosk would create a small area of non-useable space, but there is limited evidence that incidences of anti-social behaviour would be any greater than at present due to the siting of the kiosk in the location proposed. The cycle stands and shop front would maintain activity in the area and enable a level of surveillance.
12. It is asserted that the kiosk would impede access to the utility cabinets and the cycle stands. I have considered this and am satisfied that the plans show there would be adequate space around the kiosk.
13. The Council states that the glazing must be blast mitigated as the kiosk would be in the town centre. There is limited explanation for this, and I do not have sufficient evidence to demonstrate that such a modification to the scheme would be justified.

14. The kiosk would be located opposite the boundary of the Hammersmith Broadway Conservation Area, and the Council states it would be adjacent to the listed public house and opposite 21-33 King Street, which are included in the Council's Local Register of Buildings of Merit. The kiosk would be separated from the Conservation Area by the road. Due to the separation distance and intervening road, I find that the development would preserve the character and appearance of the Conservation Area, and its significance would be unaffected. The public house and locally listed buildings are some distance from where the kiosk would be sited and I am satisfied that, due to its size and siting, it would not adversely affect the setting or significance of the listed building, or the significance of the non-designated heritage asset.
15. Overall, I find that the development would not adversely affect pedestrian movement. It would not be obtrusive and the character and appearance of the street scene would be maintained.

Conditions

16. The development is subject to the standard conditions set out in A.2 and A.3 of the GPDO. These include the implementation within five years and the removal of the structure/apparatus when it is no longer required for electronic telecommunications purposes. I have not imposed the Council's suggested condition concerning the materials, the treatment of the surrounding pavement and a construction management plan as the GPDO does not provide any specific authority for imposing additional conditions. The Council also suggested conditions to control advertisements. The display of any advertisements is not relevant to the appeal before me, as explained above.

Conclusion

17. I conclude that approval should be given in respect of the siting and appearance of the development.
18. For the reasons given above, the appeal is allowed.

Debbie Moore

Inspector